

## OPINION 1082

USE OF THE PLENARY POWERS TO GIVE THE SPECIFIC NAME *KLEINENBERGI*, *ERETMOPHORUS*, GIGLIOLI, 1889, PRECEDENCE OVER THE SPECIFIC NAME *BENOIT*, *PHAROPTERYX*, RÜPPELL, 1852 (PISCES)

RULING.- (1) Under the plenary powers it is hereby ruled that the specific name *kleinenbergi* Giglioli, 1889, as published in the binomen *Eretmophorus kleinenbergi*, is to be given precedence over the specific name *benoit* Rüppell, 1852, as published in the binomen *Pharopteryx benoit* by any zoologist who considers that both names apply to the same taxon.

(2) The following specific names are hereby placed on the Official List of Specific Names in Zoology with the Name Numbers specified:

- (a) *kleinenbergi* Giglioli, 1889, as published in the binomen *Eretmophorus kleinenbergi*, with an endorsement that it is to be given precedence over the specific name *benoit* Rüppell, 1852, as published in the binomen *Pharopteryx benoit* by any zoologist who considers that both names apply to the same taxon (Name Number 2605);
- (b) *benoit*, Rüppell, 1852, as published in the binomen *Pharopteryx benoit*, with an endorsement that it is not to be given precedence over the specific name *kleinenbergi* Giglioli, 1889, as published in the binomen *Eretmophorus kleinenbergi*, by any zoologist who considers that both names apply to the same taxon. (Name Number 2606)

(3) The following generic names are hereby placed on the Official Index of Rejected and Invalid Generic Names in Zoology with the Name Numbers specified:

- (a) *Pharopterix* Rüppell, 1828, an incorrect original spelling of *Pharopteryx* Rüppell, 1828 (Name Number 2085);
- (b) *Pharopteryx* Rüppell, 1852, a junior homonym of *Pharopteryx* Rüppell, 1828 (Name Number 2086).

## HISTORY OF THE CASE Z.N.(S.) 1981

An application for the conservation of the specific name *kleinenbergi*, *Eretmophorus*, Giglioli, 1889, by the suppression under the plenary powers of the specific name *benoit*, *Pharopteryx*, Rüppell, 1852 (Pisces) was first received from Professor E. Tortonese on 1 September 1971. It was sent to the printer on 23 September 1971 and published on 1 May 1972 on pp. 37-38 of vol. 29 of the *Bulletin of Zoological Nomenclature*. Public notice of the possible use of the plenary powers in the case was given in the same

part of the *Bulletin* as well as to the prescribed serials (Constitution, Art. 12b) and to an ichthyological serial.

In 1974 Dr Nye published (*Bull.* 30: 140-141) a proposal that cases such as the present one involving the protection of a junior subjective synonym should be dealt with by giving that name nomenclatural precedence over its senior synonym. Professor Tortonese asked (*Bull.* 30: 172-173, 13 January 1975) that his proposals in the present case be reworded in the sense of Dr. Nye's proposal.

Later it was discovered that the status of *Pharopteryx* Rüppell, 1852, was not clear and that first reviser action was needed to make clear its invalidity as a junior homonym of *Pharopteryx* Rüppell, 1828. The necessary action was taken by Professor Tortonese in *Bull.* vol. 33: 9 (26 June 1976).

No comment was received on the case.

### DECISION OF THE COMMISSION

On 22 September 1976 the members of the Commission were invited to vote under the Three-Month Rule on Voting Paper (1976) 17, in Part 1 for or against the proposals regarding the relative precedence of the two specific names as set out in *Bull. zool. Nomencl.* vol. 31: 172-173 and in Part 2 for or against the proposal relating to *Pharopteryx* Rüppell, 1852 as set out in *Bull. Zool. Nomencl.* vol. 33: 9. At the close of the voting period on 22 December 1976, the state of the voting was as follows:

#### Part 1

Affirmative Votes - nineteen (19) received in the following order: Melville, Eisenmann, Holthuis, Vokes, Willink, Lemche, Brinck, Rohdendorf, Tortonese, Mroczkowski, Ride, Habe, Binder, Corliss, Starobogatov, Bayer, Welch, Nye, Kraus, Bernardi

Negative Votes - three (3): Sabrosky, Dupuis, Bernardi

#### Part 2

Affirmative Votes - twenty (20) received in the following order: Melville, Eisenmann, Vokes, Willink, Lemche, Brinck, Rohdendorf, Tortonese, Mroczkowski, Ride, Habe, Binder, Corliss, Starobogatov, Bayer, Welch, Dupuis, Nye, Kraus, Bernardi.

Negative Vote - Sabrosky

Abstention - Holthuis.

No Voting Paper was returned by Mr Heppell. A late affirmative vote for Parts 1 and 2 was returned by Dr. Alvarado.

The following comments were sent in by members of the Commission with their voting papers:

*Holthuis*: As far as I can see Part 2 is irrelevant here. On p. 9 of vol. 33 Professor Tortonese takes action as first reviser and does not need the approval or help of the Commission to do so.

*Sabrosky*: I applaud the sound first reviser action by Professor Tortonese, but I am always opposed in principle to

stuffing the Official Index with trifles like incorrect spellings and junior homonyms, which require no plenary powers.

*Bayer:* In my opinion, the valid name in cases of multiple original spelling should be determined by the first subsequent user, regardless of whether intention to choose was demonstrated, as the situation differs scientifically from cases of synonymy as stressed in Art. 24a (i). Had this been the case, Jordan & Seale's usage of *Pharopteryx* in 1905 would have determined the correct original spelling of the generic name established by Rüppell, 1828, and Professor Tortonese's action as first reviser would have been unnecessary. As *Pharopteryx* Rüppell, 1852, is now a homonym of *Pharopteryx* Rüppell, 1828, there is no reason not to put it and the incorrect spelling on the Official Index. Although I have voted in favour of giving precedence to the junior name *kleinenbergi* Giglioli, it seems immaterial which name is used as even the applicant admits that the species is rare and of no practical interest (*Bull.* 29: 37).

*Bernardi:* Je préfère voir appliquer la loi de priorité pour cette "rare epipelagic species" de l'aveu même de Tortonese.

## ORIGINAL REFERENCES

The following are the original references for the names placed on an Official List and an Official Index by the ruling given in the present Opinion:

*benoit*, *Pharopteryx*, Rüppell, 1852, *Verz. Mus. Senck. naturf. Gesell. aufges. Samml.*, vol. 4: 16

*kleinenbergi*, *Eretmophorus*, Giglioli, 1889, *Proc. zool. Soc. London* for 1889: 328

*Pharopteryx* Rüppell, 1828, *Atlas zu der Reise im nördlichen Afrika* von E. Rüppell (*Senck. nat. Ges.*), vol. 4, Fische (10): 15

*Pharopteryx* Rüppell, 1852, *Verz. Mus. Senck. naturf. Gesell. aufges. Samml.*, vol. 4: 16.

## CERTIFICATE

I certify that the votes cast on Voting Paper (76) 17 were cast as set out above, that the proposals there set forth have been adopted under the plenary powers, and that the decision so taken, being the decision of the International Commission on Zoological Nomenclature, is truly recorded in the present Opinion No. 1082.

R.V. MELVILLE

*Secretary*

*International Commission on Zoological Nomenclature*  
*London*

*1 March 1977*